

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of

Lifeline and Link Up Reform and
Modernization

WC Docket No. 11-42

**PETITION OF THE
CALIFORNIA PUBLIC UTILITIES COMMISSION
FOR TEMPORARY WAIVER**

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I. INTRODUCTION

Pursuant to Section 1.3¹ of the Federal Communications Commission's (FCC or Commission) rules, the California Public Utilities Commission (CPUC or California) files this Petition for a Temporary Waiver of the federal port freeze rule codified in 47 C.F.R. § 54.411.² On December 1, 2017, the Commission issued its *Fourth Report and Order, Order on Reconsideration*³, (2017 Lifeline Order) and eliminated the federal port freeze for voice and broadband Internet access services. This rule change goes into effect on March 19, 2018.

In this Petition, the CPUC requests a four-month extension of time to comply with the federal port freeze change. The CPUC needs additional time to conduct a regulatory process to

¹ See 47 C.F.R. § 1.3 – “The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.”

² See 47 C.F.R. § 54.411 Lifeline benefit portability - (a) A provider shall not seek or receive reimbursement through the Lifeline program for service provided to a subscriber who has used the Lifeline benefit to enroll in a qualifying Lifeline-supported broadband Internet access service offering with another Lifeline provider within the previous 12 months. (b) A provider shall not seek or receive reimbursement through the Lifeline program for service provided to a subscriber who has used the Lifeline benefit to enroll in a qualifying Lifeline-supported voice telephony service offering with another Lifeline provider within the previous 60 days. (c) Notwithstanding paragraphs (a) and (b) of this section, a provider may seek and receive reimbursement through the Lifeline program for service provided to a subscriber prior to the completion of the 12-month period described in paragraph (a) of this section or the 60-day period described in paragraph (b) of this section if: (1) The subscriber moves their residential address; (2) The subscriber's current provider ceases operations or otherwise fails to provide service; (3) The provider has imposed late fees for non-payment greater than or equal to the monthly end-user charge for the supported service; or (4) The subscriber's current provider is found to be in violation of the Commission's rules during the 12-month period and the subscriber is impacted by such violation. (d) If a subscriber transfers his or her Lifeline benefit pursuant to paragraph (c) of this section, the subscriber's Lifeline benefit will apply to the newly selected service until the end of the original 12-month period. In these circumstances, the subscriber is not required to re-certify eligibility until the end of the original 12-month period. The subscriber's original provider must provide the subscriber's eligibility records to either the subscriber's new provider or the subscriber to comply with the 12-month service period.

³ See *Lifeline and Link Up reform and Modernization et al.*, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry; WC Dkt. Nos. 17-287, 11-42, and 09-197; (rel. Dec. 1, 2017); (2017 Lifeline Order).

determine what, if any, changes are needed to the California LifeLine Program, due to the elimination of the federal port freeze. The CPUC requests an extension of time, until July 15, 2018, to comply with this change for reasons discussed below.

II. DISCUSSION

In the *2017 Lifeline Order*⁴, the Commission, upon reconsideration, determined that port freeze should be eliminated because it did not produce additional consumer benefits or more competitive service offerings as it had previously envisioned in its *2016 Lifeline Order*.⁵ The Commission concluded that port freeze produced more disadvantages to consumers by restricting them from switching to other service providers and limiting their access to better service offerings.⁶ The CPUC does not oppose the Commission's policy reversal on port freeze. However, the CPUC requests additional time to make any necessary changes to California's program rules.

As the CPUC has described in its previously-filed FCC Lifeline comments, the CPUC uses one Lifeline platform or process via a third party administrator to administer both the federal and California LifeLine programs. This process makes it more user-friendly for consumers to enroll in the programs and for eligible telecommunications carriers (ETCs) to offer Lifeline services in California. The CPUC's LifeLine process allows consumers to submit one application and undergo one eligibility process to qualify for both federal and California Lifeline services. Similarly, the California LifeLine rules, for the most part, mirror the federal Lifeline

⁴ *Id.*

⁵ See *Lifeline and Link Up reform and Modernization et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration; WC Dkt. Nos. 11-42, 09-197, and 10-90 (rel. April 27, 2016); (*2016 Lifeline Order*).

⁶ *2017 Lifeline Order* at ¶¶ 33-38.

rules so that they are less administratively burdensome for ETCs that provide Lifeline services in California.

In 2016, the Commission adopted the federal port freeze for voice and broadband services. Soon thereafter, the CPUC adopted the state-equivalent for voice service. In September 2016, the California Legislature passed Assembly Bill (AB) 2570 directing the CPUC to adopt a port freeze for the California LifeLine Program. AB 2570 is codified in California Public Utilities (PU) Code § 878.5, which states as follows:

The commission [CPUC] shall adopt a portability freeze rule for the lifeline program by January 15, 2017. The commission shall consider including all of the following in the rule: (a) A 60-day duration of the portability freeze. (b) A period of time when a subscriber would be able to terminate lifeline service without penalty, similar to provisions established in Section 4.13.5 of commission Decision 14-01-036 (January 16, 2014), Decision Adopting Revisions to Modernize and Expand the California Lifeline Program. (c) A requirement that the administrator of the lifeline program provide a telephone corporation providing lifeline service with real-time information concerning whether a subscriber has enrolled with another telephone corporation during the period of the portability freeze adopted by the commission pursuant to this section and, if the subscriber enrolled during this period, the date of enrollment.

In compliance with PU Code§ 878.5, the Commission in January 2017 adopted a 60-day port freeze for California LifeLine voice services.⁷

The CPUC does not oppose the Commission eliminating the federal port freeze, but because the California LifeLine rules work in parallel with the federal Lifeline rules, the CPUC needs additional time to conduct a public process, including soliciting comments from ETCs, consumer groups, and consumers on what, if any, changes are needed in the California LifeLine program, due to the elimination of the federal port freeze rules. A public process typically takes

⁷ See CPUC D. 17-01-032 - *Order Instituting Rulemaking Regarding Revisions to the California Universal Telephone Service (LifeLine) Program*, Decision Modifying the California LifeLine Program in Accordance with Assembly Bill 2570 and the Federal Communications Commission's Third Report and Order; Rulemaking 11-03-013; (adopted Jan. 18, 2017).

six months, but given the significant impact of the Commission's recent port freeze rule change, the CPUC will do its best to expedite its public processes.

Additionally, the waiver will permit California Legislators to conduct their own public process and address any changes needed to harmonize the state port freeze requirement with the federal port freeze change.

III. CONCLUSION

For the foregoing reasons, the CPUC requests a four-month extension of time, until July 15, 2018, to address the recent elimination of the federal port freeze.

Respectfully submitted,

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